IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

Bail Appl..No. 5637 of 2007()

CR.NO. 74/07 OF NEDUMANGAD EXCISE RANGE

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PETITIONER/ACCUSED

VASANTHA, AGED 50 YEARS,
W/O LATE RETNAKARAN, PANKAJALAYAM, SANNAGAR,
NEDUMANGAD.

BY ADV. SRI.A.RAJASIMHAN

RESPONDENTS: COMPLAINANT

EXCISE INSPECTOR,
NEDUMANGAD EXCISE RANGE, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5637 of 2007

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Dated this the 19th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. She was allegedly found to be in possession of 10 litres of arrack on 10.6.2007. Her arrest could not be effected as the detecting Excise party did not consist of any woman official. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are totally false. The petitioner is old and sick. She has to undergo a surgery. In these circumstances the petitioner may be granted anticipatory bail, submits the learned counsel.

3. The learned Prosecutor opposes the application. This is an eminently fit case where the petitioner must be directed to appear before the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course, submits the Prosecutor.

4. I find merit in the opposition raised by the learned Prosecutor. I do not find any features in this case, which would

justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. This, I am satisfied, is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate having jurisdiction and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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